

Appl. No. 09/398,307
Amdt. with Request for RCE Dated July 10, 2006
Reply to Office Action Made Final dated April 10, 2006

REMARKS/ARGUMENTS

After entry of the foregoing amendment, Claims 1 to 10, 12, 14 to 17 and 19 to 67 remain in this application. Claims 1, 4, 5, 7, 12, 14 to 17 and 21 have been amended and new Claims 28 to 67 have been added.

In the specification, page 14 has been amended to correct a minor grammatical error. No new matter has been introduced by this amendment. Accordingly, Applicants respectfully request the Examiner to enter this amendment to the specification.

The Examiner made the April 10, 2006 Office Action Final. In accordance with 37 C.F.R. §1.114, Applicants respectfully request continued examination of this application and in support thereof submit a Request for Continued Examination Transmittal and authorization to charge the required fee under 37 C.F.R. §1.17(e) of \$790.00 to Deposit Account No. 50-2091. Applicants submit that a Request for Continued Examination is appropriate at this time because prosecution has been closed in regards to this application by the Examiner making the April 10, 2006 Office Action Final (see 37 C.F.R. §1.114(b)).

In the Office Action dated April 10, 2006, the Examiner rejected Claims 1, 2, 4, 5, 7, 8, 10, 12, 14 to 17, 21 and 22 under 35 USC §102(b) as being anticipated by Doner (US Patent No. 5,758,090). Applicants respectfully submit that the Examiner's rejection under 35 USC §102(b) has been overcome by the amendment of Claims 1, 4, 5, 7, 12, 14 to 17 and 21 and the remarks below.

Doner describes a terrestrial cellular communication system wherein channels for communication from a base station to a plurality of mobile stations (forward channels) are assigned in concentric rings so that mobile stations operating at approximately equal distances

Appl. No. 09/398,307
Amdt. with Request for RCE Dated July 10, 2006
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from the base station operate on the same channel (see Abstract, col. 3, lines 1-10, and FIG. 3 and accompanying text).

The present invention as claimed in amended Claim 1 is not anticipated by Doner because Doner neither describes, discloses nor teaches the steps of "upon receipt of a first communication connection in the wireless communication system, ascertaining a receive power level associated with a receive side of the first communication and a transmit power level associated with a transmit side of the first communication", "identifying at least one of said plurality of frequency sub-bands within the at least one cell that has a power range encompassing said receive power level" and "assigning a channel within said at least one of said plurality of frequency sub-bands that has said power range encompassing said receive power level to said receive side of said first communication connection". Doner teaches assigning forward channel frequencies (see col. 3, lines 1 to 10, and col. 5, lines 1 to 5 and 54 to 65), which are the transmit side of communications from the base station to a mobile station, thereby optimizing the total transmit power needed by the base station (see col. 5, lines 6 to 15 and 31 to 36). Doner does not disclose or describe ascertaining a receive power level, identifying a frequency sub-band with a power range including the receive power level, or assigning a channel with the identified frequency sub-band to the receive side of a communication connection.

Claims 2, 4 and 5, as amended, depend from Claim 1, as amended. For the reasons stated above in regards to Claim 1, as amended, Claims 2, 4 and 5, as amended, are not anticipated by Doner.

Claim 7, as amended, calls for a "means for determining a receive power level and a transmit power level associated with a wireless connection between said communication

Appl. No. 09/398,307
Amdt. with Request for RCE Dated July 10, 2006
Reply to Office Action Made Final dated April 10, 2006

platform and one of the plurality of subscribers". In addition, Claim 7, as amended calls for "means for selecting at least one of said plurality of frequency sub-bands within the wireless cell that has a power range encompassing said receive power level determined by said means for determining" and "means for assigning a channel within said at least one of said plurality of frequency sub-bands within the wireless cell that has said power range encompassing said receive power level determined by said means for determining to a receive side of said wireless connection for use in providing wireless communication between said one of said plurality of subscribers and said communication platform". Doner neither describes, teaches or discloses (1) the means for determining which determines both a receive power level and a transmit power level associated with a wireless connection, (2) the means for selecting a frequency sub-band or sub-bands having a power range encompassing the receive power level, or (3) the means for assigning a channel within the frequency sub-band(s) to a receive side of the wireless connection. Claims 8 and 10 depend From Claim 7, as amended. For the reasons stated herein, Claims 7, 8 and 10, as amended, are not anticipated by Doner.

Claim 12, as amended, calls for a receive side power level determination step "determining power levels of received signals received from remote entities within the wireless cell *to establish receive sides of wireless communication connections with said remote entities*" and a received signals assignment step "assigning the received signals to frequency sub-bands having power ranges that encompass the power level of the received signals" (emphasis added). Neither the receive side power level determination step nor the received signals asssignemtn step are disclosed, described or taught by Doner. Claims 14 to 17, as amended, depend from Claim 12, as amended. Since Doner teaches only the assignment of transmit side channel

Appl. No. 09/398,307
Amdt. with Request for RCE Dated July 10, 2006
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assignment (i.e., the assignment of forward channel radio frequencies), Claims 12 and 14 to 17, as amended, are not anticipated by Doner.

Claim 21, as amended, is not anticipated by Doner in that the steps of "determining a power level of a signal received at said first location from said wireless cell at said second location" and "assigning the signal to one of the plurality of channel groups having a power range that encompasses said power level for a receive side of one of said communication connections" are neither described in, taught by, nor disclosed in Doner. Claim 22 depends from Claim 21, as amended. Accordingly, Claims 21 and 22, as amended, are not anticipated by Doner.

In the April 10, 2006 Office Action, the Examiner has also rejected Claims 3, 6, 9, 19, 20 and 22 to 25 under 35 USC §103(a) as being unpatentable over Doner in view of Natarajan et al. (US Patent No. 5,749,044). Applicants respectfully submit that the Examiner's rejection under 35 USC §102(b) is traversed and overcome by the amendment of Claims 1, 7, 12 and 21 and the remarks below.

Natarajan et al. discloses methods and apparatus for determining the best cell for servicing an existing channel request. The best cell is determined based upon an evaluation of at least four criteria for each of the candidate cells. One criteria that is used to determine the best cell is a candidate cell's broadcast power received at the subscriber unit. Neither Doner, Natarajan, et al., nor the combination of Doner in view of Natarajan et al. teaches or suggests methods or apparatus for ascertaining both a receive power level and a transmit power level, identifying frequency sub-band(s) having a power range including the receive power level and assigning a channel in the frequency sub-band(s) for a receive side of a communication

Appl. No. 09/398,307
Amdt. with Request for RCE Dated July 10, 2006
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connection, as claimed in any or all of Claims 3, 6, 9, 19, 20 and 22 to 25 depending from Claims 1, 7, 12 and 21, as amended.

Accordingly, Applicants believe that the rejection of Claims 3, 6, 9, 19, 20 and 22 to 25 under 35 USC §103(a) is traversed and has been overcome by the amendments of Claims 1, 7, 12 and 21.

Applicants have also added by the foregoing amendment, new Claims 28 to 40 depending from independent Claim 1, as amended; new Claims 41 to 50 depending from independent Claim 7, as amended; new Claims 51 to 65 depending from independent Claim 12, as amended; and new claims 66 and 67 depending from independent Claim 21, as amended.

Support for new Claims 32 to 35, 43 to 46 and 57 to 60 can be found at page 11, lines 8 to 21. Support for new Claims 36, 37, 47, 61 and 62 can be found at page 12, lines 4 to 13. Support for new Claims 28, 30, 31, 41, 42, 53, 55 and 56 can be found at page 14, lines 1 to 16. Support for new Claims 29 and 54 can be found on page 15, lines 5 to 14. Support for new claims 38 to 40, 48 to 50 and 63 to 65 can be found at page 15, line 27 to page 16, line 6. Support for new Claims 66 and 67 can be found throughout the detailed description, particularly at page 4, lines 19 to 23. Support for new Claims 51 and 52 can also be found throughout the application with support for new Claim 52 particularly found at page 13, lines 3 to 4 and support for new Claim 51 particularly found at page 14, lines 1 to 24.

Applicants respectfully submit that new Claims 28 to 67 are allowable over the art of record for the reasons set forth in regards to the rejections of Claims 1 to 10, 12, 14 to 17 and 19 to 25.

In view of Applicant's amendments and remarks, it is respectfully submitted that Examiner's rejections under 35 USC §102(b) and 35 USC §103(a), have been overcome.

Appl. No. 09/398,307
Amdt. with Request for RCE Dated July 10, 2006
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Accordingly, Applicants respectfully submit that the application, as amended, is now in condition for allowance, and such allowance is therefore earnestly requested. Should the Examiner have any questions or wish to further discuss this application, Applicants request that the Examiner contact the undersigned, Applicants' attorneys at (480) 385-5060.

With entry of the foregoing amendment, the application contains sixty-two (62) claims, including four (4) independent claims. Applicants hereby authorize charging Deposit Account No. 50-2091 for \$2300 for sixty-two (62) claims, including four (4) independent claims.

In the Office Action made Final mailed April 10, 2006, the Examiner set a shortened statutory period of three months from the mailing date thereof for response. Applicants submit that this Amendment and Response under 37 C.F.R. §1.111 and the accompanying Request for Continued Examination Transmittal under 37 C.F.R. §1.114 is timely filed within the shortened statutory pursuant and, accordingly, no petition or fee for an extension of time is required to be submitted herewith.

If for some reason Applicants have not requested a required extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent abandonment on this application, please consider this as a petition for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any additional fee which may be due.

Respectfully submitted,
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